**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**SPECIAL CRIMINAL APPLICATION No. 504 of 2006**

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE P.B.MAJMUDAR**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**KANUBHAI SOMABHAI BAROT**
**Versus**
**THE STATE OF GUJARAT AND OTHERS**

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**Appearance :**
MR RB SHARMA for MR BS BRAHMBHATT for Applicant.
MR ND GOHIL, APP for Respondents.

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**CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR**

**Date : 07/07/2006**

**ORAL JUDGMENT**

This petition is filed by the son of the externee, challenging the order of externment of the externee, Kanubhai Somabhai Barot.

Mr.R.B.Sharma, learned advocate for the petitioner submitted that at the time of admitting the petition, this Court had permitted the son of

the externee to prosecute the petition and the Court had allowed the amendment.

On the last occasion, affidavit of the externee is also filed, which is taken on record.

By filing this petition, the petitioner has challenged order of externment of Kanubhai Somabhai Barot dated 11-7-2005, passed by Deputy Commissioner of Police, Zone – 6, Ahmedabad City. By the aforesaid order, the externee was externed from Police Commissionerate area of Ahmedabad City as well as Ahmedabd Rural, Gandhinagar, Kheda and Mehsana districts.

Against the aforesaid order, the externee had preferred an appeal before the State Government. The State Government has partly allowed the appeal of the externee and the externee was externed from Police Commissionerate area of Ahmedabad city only for a period of one year.

Mr.R.B.Sharma, learned advocate for the petitioner submitted that the show cause notice issued to the applicant under Section 59 of the Bombay Police Act is absolutely vague. In the show cause notice, it is stated that the externee is doing illegal activities since 2000. In this behalf five incidents have been narrated. Particulars of the incidents are given at page 15 of the compilation. Particulars given are to the effect that in certain areas mentioned in the show cause notice, the externee is beating people and he is also keeping weapons with him. It is also alleged that the externee is not giving money after purchasing articles from the shops of the areas mentioned in the show cause notice. It is also alleged that the externee is also demanding money from the traders and beating them. It is also alleged that in the said areas, the externee is

misbehaving with the girls. It is submitted by the learned advocate for the petitioner that in the particulars given in the show cause notice regarding the activities alleged to have been done by the externee, no period is specified and no date or month is mentioned and in an absolutely vague manner it is stated in the notice that since 2000, externee is doing aforesaid activities. He, therefore, submitted that the order of externment is required to be quashed. In support of his say, learned advocate for the petitioner has relied upon the decision of the Division Bench of this Court in **Rajput Ranjitsing Jatubha v. Vinay Vyas, Sub-Divisional Magistrate, Palanpur & Others, 1986(1) GLR 478**. In the said judgment, this Court has observed as under :-

> " ... ... ...
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> A mere look at the allegations shows that they suffer from the vice of vagueness viz. (i) no period is mentioned during which the alleged nefarious activities have been carried on by the petitioner and (ii) no area or location is shown where such activities are carried on. These infirmities must be treated to be fatal infirmities. It must, therefore, be held that the petitioner got no reasonable opportunity to show cause against the proposed externment on the allegations contained in the aforesaid show cause notice.
> ... ... ...."

Averment made in this behalf in the petition is not replied by the respondents by filing reply.

Reading the contents of the notice, it is clear that the same is very vaguely given as no particulars are given with regard to the period during which the aforesaid incidents have taken place. In the show cause notice given in 2004 it is stated that the incidents are of 2000, but no particular date or month is given. Accordingly in the present case notice is given in a very vague and general manner. If no specific month or date

is mentioned in the notice, it may happen that in a given case, authority may say that since last 30 or 40 years, said activity is carried out by the externee. Considering the aforesaid aspect of the matter, at least the authority should have mentioned specifically that during which month or year the incident had taken place so that effective reply can be given by the externee.

Considering the aforesaid aspect of the matter, notice issued against the petitioner can be said to be absolutely vague, as no specific period is mentioned in the notice and by doing so, the petitioner is denied his right to give effective reply to the show cause notice. Therefore, the order of externment passed by the Department is required to be set aside. As indicated above, the show cause notice is given for the purpose of giving appropriate explanation and not to complete mere formality of the Act.

Considering the aforesaid aspect of the matter as well as by considering the judgement of the Division Bench of this Court, this petition is allowed. Order of externment dated 11-7-2005 passed by Deputy Commissioner of Police, Zone – 6, Ahmedabad city, against Shri Kanubhai Somabhai Barot, which is partly confirmed by the State Government, is quashed and set aside. Rule is made absolute. Direct service is permitted.

(P.B.MAJMUDAR, J.)

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